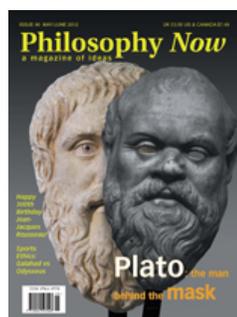




May/June 2012



Enlarge cover

Back Issues

Categories

Podcasts

Search

Forum

Events

Links

Books

Free Articles

Webfeed

FOLLOW US ON



Most Read	Most Discussed	Most Emailed

- [1. The Death of Postmodernism And Beyond](#)
- [2. Plato on a Plate](#)
- [3. Morality is a Culturally Conditioned Response](#)
- [4. The Death of Pythagoras](#)
- [5. What Does It Mean To Be Cool?](#)

Articles

The Ethics of Taxation

Richard Baron finds that philosophy need not be taxing.

In the Western world the proportion of the economy controlled by the state has grown enormously over the last century, and pressures on the state are set to rise as people live longer, meaning that tax will continue to rise for the great majority of the population. What are the rights and wrongs of asking so many people to pay so much?

To answer this we can ask several questions, including how much tax should be collected in total, which objectives of taxation are legitimate, and how individuals should conduct themselves as taxpayers. We will address these questions by using arguments from political philosophy, and the following three approaches to ethics:

- *Utilitarianism*, which tells us to aim for the greatest total happiness across the population. In the economic sphere, we can interpret 'happiness' as the satisfaction of our desires; and so utilitarianism as aiming for maximum satisfaction of desires.
- *Deontology*, which bases ethics on the idea of duty.
- *Virtue ethics*, which focus on the virtues we should have, and on what constitutes a virtuous life. A broad conception of the virtues must be used here, encompassing not only virtues such as honesty, but also virtues such as using one's talents and leading a fulfilled life.

The Total Amount of Tax

For a utilitarian the most important economic goals are to ensure that goods and services are available to allow everyone to have a decent life, and to ensure that these resources are distributed widely enough for all or most people to enjoy them. A true utilitarian would only care about total satisfaction, not about the evenness of its distribution, but with taxation we're discussing the distribution of resources. If each person has modest resources, that should generate more satisfaction in total than if the same total resources are concentrated in the hands of a few people. Taxation plus government spending are an obvious way to achieve redistribution to ensure that everybody gets something.

There is a certain tension here. Taxation and spending help to achieve wide resource distribution, but high rates of tax reduce investment and incentives, which makes it hard to generate sufficient total resources. Too much redistribution may thus mean too small a pie to share out. Utilitarians must therefore strike a balance. Economists, rather than philosophers, are the ones to advise them on how to do this balancing of interest to get the most productive result. This is not surprising. Utilitarianism merely lays down a computational rule. Utilitarians need experts from other disciplines to do the computations for them.

Unlike the utilitarian, the deontologist does not tell us to make computations. Instead, he or she lays down absolute duties. One common such duty is to respect other people's property rights. This could be interpreted to mean that there should be no tax at all, because tax is the forcible transfer of property away from taxpayers. On the other hand, the duty to respect property rights could be used to argue that any social resources one used should be paid for, even if one did not ask for those resources to be provided. Thus in order not to be a thief, anyone who uses a public hospital, or even a public road, should make sure that he or she pays tax to cover their use. But it is difficult to make this argument watertight. Is it realistic to ask people to opt out of using public roads if they don't want to pay tax? They would have to move to a wilderness somewhere. But why should they be made to do that, when they already own their homes? Deontology therefore does here what it often does. It offers arguments which pull in opposite directions, and leaves us completely uncertain about what to conclude.

Virtue ethics can be a bit more helpful on the question of the justice of taxation. Several virtues seem more likely to be exercised if tax rates are moderate than if they are very high. One should use one's talents to the full. Financial incentives can encourage people to use their talents, but very high taxation dampens down those incentives by reducing take-home pay. Another virtue is charity, either in cash or in time. The more take-home pay people have, the more likely it is that they will feel able to afford charitable donations; and the higher peoples' pay rates, the easier it will be for them to take time away from paid work to perform charity work or other forms of civic service, as school governors or magistrates for example. A third virtue is independence. It is good to earn what one needs rather than to depend on subsidies from others. Lower rates of taxation make independence more easily achievable.

Let us also turn to political arguments based on the fact that taxation is coercive. In *Anarchy, State, and Utopia* (1974), Robert Nozick argued that imposed taxation is a violation of our rights. Property is mainly shared out among us initially by a process of acquisitions a long time ago, and by exchanges since then. If the initial acquisitions and the subsequent exchanges were just, then the current distribution of property is just, and it would be unjust to interfere with that distribution by force. If people individually agree to pay for things like a police service, that's fine; but the majority should not force the unwilling minority to contribute.

One of the most interesting challenges to this line of thought was given by Liam Murphy and Thomas Nagel in *The Myth of Ownership: Taxes and Justice* (2002). They say that we should not think in terms of a natural distribution of income and

Print

Email

Discuss

Share



wealth, with a tax-levying state interfering with that distribution. Rather, the state is what gives the stability that allows high incomes. They point out that in a world without government there would be no security of property, no system of enforceable contracts, and so on. As a result, overall levels of wealth would be much lower than they actually are. It is not the case that the existing wealth would be distributed differently without a tax-levying state: the wealth would mostly not exist.

This seems to be true. But Murphy and Nagel's argument is not enough to legitimise high levels of taxation and a big state. Suppose we had a minimal state, which provided security and a legal framework for business, but no more. So there would be no state benefits, and all schools, hospitals and roads would be private, profit-making, enterprises. The distribution of income and wealth in that minimal state might be very different from what it actually is, but the total income and wealth might not be so different. Thus Nozick could reply that this distribution, with a minimal state, should be assumed to be just. If so, any coercive interference by taxation to create a bigger state would violate peoples' rights.

This response does not show that a big state would be wrong, but it does put the pressure back on those who advocate a big state to show that a big state is justified despite the coercion involved.

The Legitimate Objectives of Taxation

Tax can be used for all sorts of purposes, and it is often clear what ethicists of any particular kind would say about these purposes. We can start with the provision of law and order and the more extensive public services such as healthcare and education. Utilitarians will approve of taxation for these things because they allow more goods and services to be produced, and they also allow more non-materialistic desires to be satisfied. Virtue ethicists will approve because these services enhance people's opportunities to use their talents and to lead flourishing lives.

When we turn to aid to the poor, utilitarians will approve because transferring resources from rich to poor increases the happiness of the poor more than it reduces the happiness of the rich. Virtue ethicists will approve because with redistribution the poor can be helped to flourish and develop virtues, and because looking after the less fortunate is itself a virtue (although voluntary charity may be a greater virtue than forced payment). And deontologists can recognize a duty to care for the poor. The greatest of all deontologists, Immanuel Kant, certainly believed in duty to the poor, although he did not have a tax-funded welfare state in mind as a response. However, none of this means that any kind of ethicist would favour *unlimited* provision of any of these good things through the tax system. As we have already seen, one has to consider the consequences of the overall level of taxation.

A more controversial objective is the promotion of equality, in the sense of equality of economic outcome (ie wealth) rather than of equality of opportunity. Taxation can very easily be used to make the distribution of incomes and wealth more equal, either by transferring cash from the rich to the poor, or by providing the same state services to everyone while taxing the rich more than the poor in order to pay for them. Greater equality may also be an accidental outcome of using the tax system to do other things. But it can also be a goal in itself. Is it legitimate to pursue equality through taxation?

There is a utilitarian argument for greater economic equality. If more equal societies are happier, more stable, have lower crime rates and so on, then a utilitarian would want to promote equality unless that interfered too much with other utilitarian objectives. We must let the sociologists tell us whether more equal societies do have those advantages.

One can also argue for equality on the basis of justice. The idea is that if there is no positive justification for people receiving unequal shares of the available resources, then they should receive equal shares, otherwise an injustice is done to those who get less than they would under an equal distribution.

To consider the merits of this argument we should start with the work of John Rawls, and in particular with his book *A Theory of Justice* (1971).

Rawls argued that social inequalities should be arranged so that the greatest benefit is gained by the people with the fewest advantages. However, he says an unequal system might actually benefit the disadvantaged more than an economically egalitarian one. For example, inequalities of income would be perfectly acceptable if they were a necessary result of there being incentives which encourage skilled people to work hard and entrepreneurial people to take risks, so long as the result was that those with the least income-earning potential were still made better off than they would otherwise have been. That looks sensible. Why not let the rich grow richer, if the poor are helped by their doing so? The poor will possibly even be grateful.

Not everyone accepts that inequalities like these would be just. For example, in his book *Rescuing Justice and Equality* (2008), Gerald Cohen argued that Rawls was far too permissive of inequality. He pointed out that we are free and conscious beings. However, the talented person who says that he or she will only work hard, and thereby benefit the whole economy, if enough money is offered, is acting like a vending machine. A vending machine will only give you what you want if you put the money in. But we are not vending machines. We can work out what we would do, given the financial incentives. Then we can decide to do it anyway, without the incentives.

Cohen said that we could work out what we would do in Rawls's society, which has inequalities to give the right incentives to develop wealth, and then we could do the same things *without* the incentives – and without the inequality. Cohen argued that this would give us even greater justice than Rawls' system would achieve. Cohen could not claim that this approach would be practical – the fact is that people *do* respond to financial incentives – but he could claim that it would be just. At least, he could claim that, if we accepted the basic premise that equality is generally more just than inequality. But should we accept that premise?

Rawls provides a key argument for equality. In his view, the way to establish what means of distribution of goods and resources is just, is to imagine what people would want if they were designing a society in which they themselves would live, but they had no idea of what family, talents or other circumstances they would have in that society. In that situation, they could expect nothing better than an average share, and would have no reason to accept as just anything substantially worse. They would therefore choose an egalitarian society, subject to the allowance for inequalities we have discussed.

But it is not at all clear that people would only accept inequalities which benefited the worst-off, as Rawls supposes. Suppose people had a choice between two societies, X and Y. In both societies, everyone would have at least a tolerable standard of living, and no-one would suffer abject poverty. In society X, the worst-off person would have an income of £15,000 a year, a few people would have incomes of £20,000, and the great majority would have incomes of £25,000. In society Y, the

worst-off person would have an income of £14,000, a few people would have incomes of £19,000, and the great majority would have incomes of £27,000. Someone making a choice of which society they would prefer to be part of, but who did not know who they would be within it (Rawls' 'veil of ignorance'), could reasonably take a chance on being someone with the income of the majority, and so prefer society Y. Rawls was wrong to assume that he or she must rationally prefer society X.

The Conduct of Taxpayers

Most taxpayers pay their taxes, without fuss. But not all taxpayers act in this way. So lastly let's look at whether two other forms of behaviour can be ethically acceptable: tax evasion, and tax avoidance.

Tax evasion involves knowingly mis-reporting the facts: for example, declaring an income of £50,000 when the true figure is £60,000; or declaring that an asset is owned by one company in a group when it's really owned by another, so paying less tax.

It would be very hard to give an ethical justification for tax evasion. One way to try to do so would be to argue that the state, in imposing taxation, engaged in theft, and that in order to prevent the theft one could lie to the state, just as one could lie to a thief. This argument would have some plausibility in the context of a regime that was imposed, rather than one democratically chosen in free elections. That is, it is possible to see a regime that is not freely elected as merely a gang of bandits, even if they are sometimes benevolent bandits. But there are many countries in which governments are freely elected, and therefore their taxation demands may be considered legitimate.

Unlike tax evasion, tax avoidance does not involve concealing information or lying. Instead, it involves structuring business transactions to ensure that less tax is payable than one might otherwise expect. The most ethically challenging examples in this area are to be found in the complex schemes used by some groups involving networks of companies and partnerships in several countries. Tax avoidance works through compliance with the precise letter of the law, not through breaking the law. That is to say, tax savings achieved may be accord with the words of the law, but it is clear that if Parliament or other legislative bodies in other countries had thought about such schemes, it would have passed different laws in order to defeat them.

A utilitarian, concerned with aggregate welfare, might be quite relaxed about tax avoidance. After all, when tax is avoided, wealth is not destroyed: it is merely kept in the private sector instead of being transferred to the public sector. The main utilitarian concern would probably be that it would result in an unintended distribution of the tax burden, as some of the burden would be shifted from the rich onto people on modest incomes who cannot afford clever tax lawyers. That would reduce their satisfaction more than it would increase the satisfaction of the better-off people who have reduced their tax burdens. But that loss to the poor might not happen. For example, where shares in companies are held by pension funds, the pensions of ordinary people can be boosted when those companies avoid tax. A virtue ethicist would be likely to view tax avoidance with disfavour. It is, after all, hardly virtuous to exploit rules knowing that one is exploiting them in unintended ways to redistribute the disadvantage away from oneself. A deontologist would not positively favour tax avoidance, but might not condemn it either. Deontologists can easily argue for a duty to obey the law: yet obeying the law is something the tax avoider takes care to do, in his own special way.

© Richard Baron 2012

Richard Baron is a philosopher and a tax policy adviser. His website is www.rbphil.com.

[ABOUT](#)

[CONTACT](#)

[FOR AUTHORS](#)

[TERMS & CONDITIONS](#)

© Philosophy Now 2012. All rights reserved.